

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 21-0679V

UNPUBLISHED

ALEXIS WNUK,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: January 19, 2023

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Renee J. Gentry, Vaccine Injury Clinic, George Washington Univ. School of Law, Washington, DC, for Petitioner.*

*Meghan Murphy, U.S. Department of Justice, Washington, DC, for Respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On January 12, 2021, Alexis Wnuk filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a shoulder injury as a result of her January 19, 2018 influenza (“flu”) vaccination. See Petition at Preamble, ¶ 9. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 13, 2022, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On January 19, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$45,045.00, representing compensation in the amounts of \$45,000.00 for her pain and suffering and \$45.00 for her past unreimbursable expenses. Proffer at 1-2. In the Proffer, Respondent

<sup>1</sup> Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$45,045.00, representing compensation in the amounts of \$45,000.00 for her pain and suffering and \$45.00 for her actual unreimbursable expenses in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

ALEXIS WNUK,

Petitioner,

V.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

No. 21-679V

Chief Special Master Corcoran

ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On January 12, 2021, Alexis Wnuk (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. The petition alleges that as a result of receiving an influenza (“flu”) vaccination on January 19, 2018, petitioner suffered from a left shoulder injury related to vaccine administration (“SIRVA”). *See* Petition at Preamble. On December 9, 2022, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act. ECF No. 38. On December 13, 2022, Chief Special Master Corcoran issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 41.

## **I. Items of Compensation**

### A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$45,000.00 in pain and suffering.

*See* 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$45.00. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that Chief Special Master Corcoran's decision and the Court's judgment award the following<sup>1</sup>: a lump sum payment of \$45,045.00, in the form of a check payable to petitioner.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Alexis Wnuk:	<b>\$45,045.00</b>
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Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO  
Director  
Torts Branch, Civil Division

HEATHER L. PEARLMAN  
Deputy Director  
Torts Branch, Civil Division

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<sup>1</sup> Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future, unreimbursed expenses, future lost earnings and future pain and suffering.

LARA A. ENGLUND  
Assistant Director  
Torts Branch, Civil Division

/s/ Meghan R. Murphy  
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DATED: January 19, 2022